

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RUSSELL N. BROADUS,)	
)	
Plaintiff,)	Civil Action No. 05 - 1210
)	
v.)	Judge Terrence F. McVerry /
)	Magistrate Judge Lisa Pupo Lenihan
)	
JO ANNE B. BARNHART,)	
)	
Defendant.)	

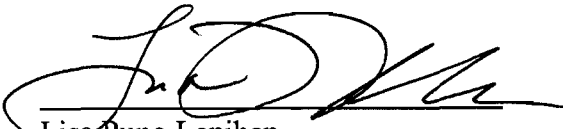
ORDER

Plaintiff filed a Motion to Proceed In Forma Pauperis along with a Complaint on August 30, 2005. The Court granted Plaintiff's in forma pauperis motion, directed the Clerk of Court to file the Complaint and summons were issued on August 31, 2005. No further activity has occurred in this case. Therefore, on January 9, 2006 this Court entered an Order for the Plaintiff to show cause no later than January 23, 2006, why it should not issue a report and recommendation dismissing this case for failure to prosecute pursuant to F.R.C.P. 4(m).

No response was received so on March 3, 2006 a Report and Recommendation was issued to the District Court recommending that the case be dismissed. On March 20, 2006 the Court finally heard from Plaintiff in the form of "Exceptions to the Magistrate's Recommendations." The excuse for the extreme delay was that counsel had not yet been trained and registered to use the Court's mandatory ECF filing, a system which has been in place for over 6 months and which has been mandatory since the beginning of this year. As the delay does not seem to have been the fault of Plaintiff, and Plaintiff is the one who would suffer most from a dismissal, the Court will withdraw its Report and Recommendation. However, no further delay will be tolerated, nor will any extensions be granted to Plaintiff.

Therefore, the Report and Recommendation dated March 3, 2006 is **HEREBY**
RESCINDED.

3-22-06
Date



Lisa Pupo Lenihan
United States Magistrate Judge

cc: Zenford Mitchell
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Pittsburgh, PA 15233